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IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1991

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JOHN ALBERT STRAND

PETITIONER,

v.

UNITED STATES OF AMERICA

RESPONDENT,

---

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PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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JOHN ALBERT STRAND  
PETITIONER PRO SE  
515 PARK WAY #11  
CHULA VISTA CALIFORNIA 91910  
TELEPHONE (619) 4259486

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QUESTIONS PRESENTED FOR REVIEW

1. Why does the dictatorial government have to use immunities?

2. Is it because the dictators are guilty?

3. Why is the dictatorial government making a fairy tale, where I.R.S. code 26 7422 (a) Civil actions for refund, where Petitioner's complaint is about dictatorial laws?

4. Why is the dictatorial government making a fairy tale, where U.S.C. code 28 2675 (a) is about claims, Petitioners complaint is about dictatorial laws?

5. Is the fairy tales because the dictatorial government is guilty.

6. Is the Supreme Court the last fraction before complete dictatorship?

7. Petitioner has read that the Solicitor General decides the government cases he wants this Honorable Court to

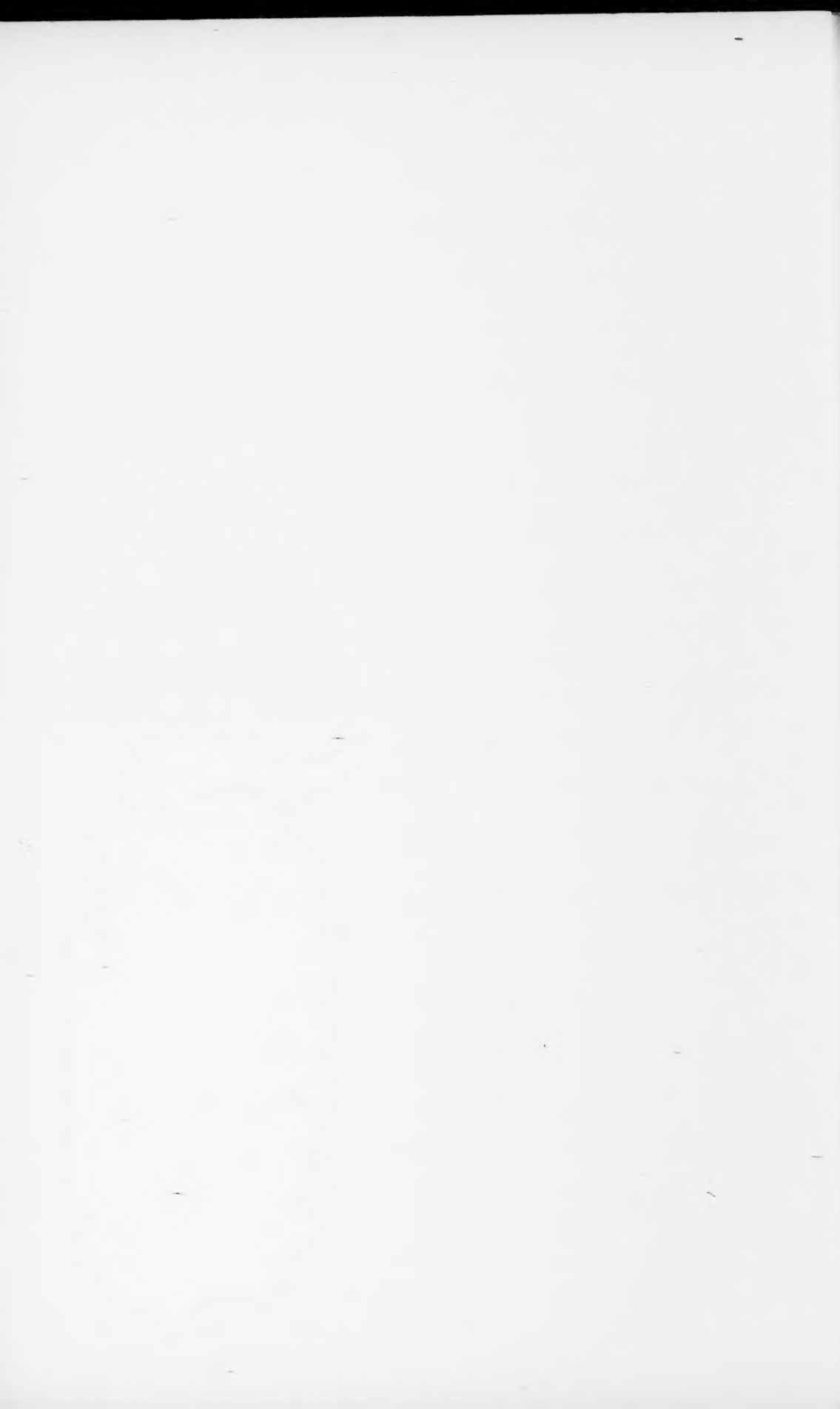


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| Proof of Service             |  |



TABLE OF AUTHORITIES

PETITIONER has excluded cases as there contents may be fairy tales like the enclosed case.

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution Amendments one five and seven.





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IN THE  
SUPREME COURT OF THE UNITED STATES  
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PETITIONER,

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PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

The Petitioner, JOHN ALBERT STRAND

respectfully prays that a Writ of Certiorari  
issue to review the judgement of the United  
States Court of Appeals for the Ninth  
Circuit entered on 12 June 1991.



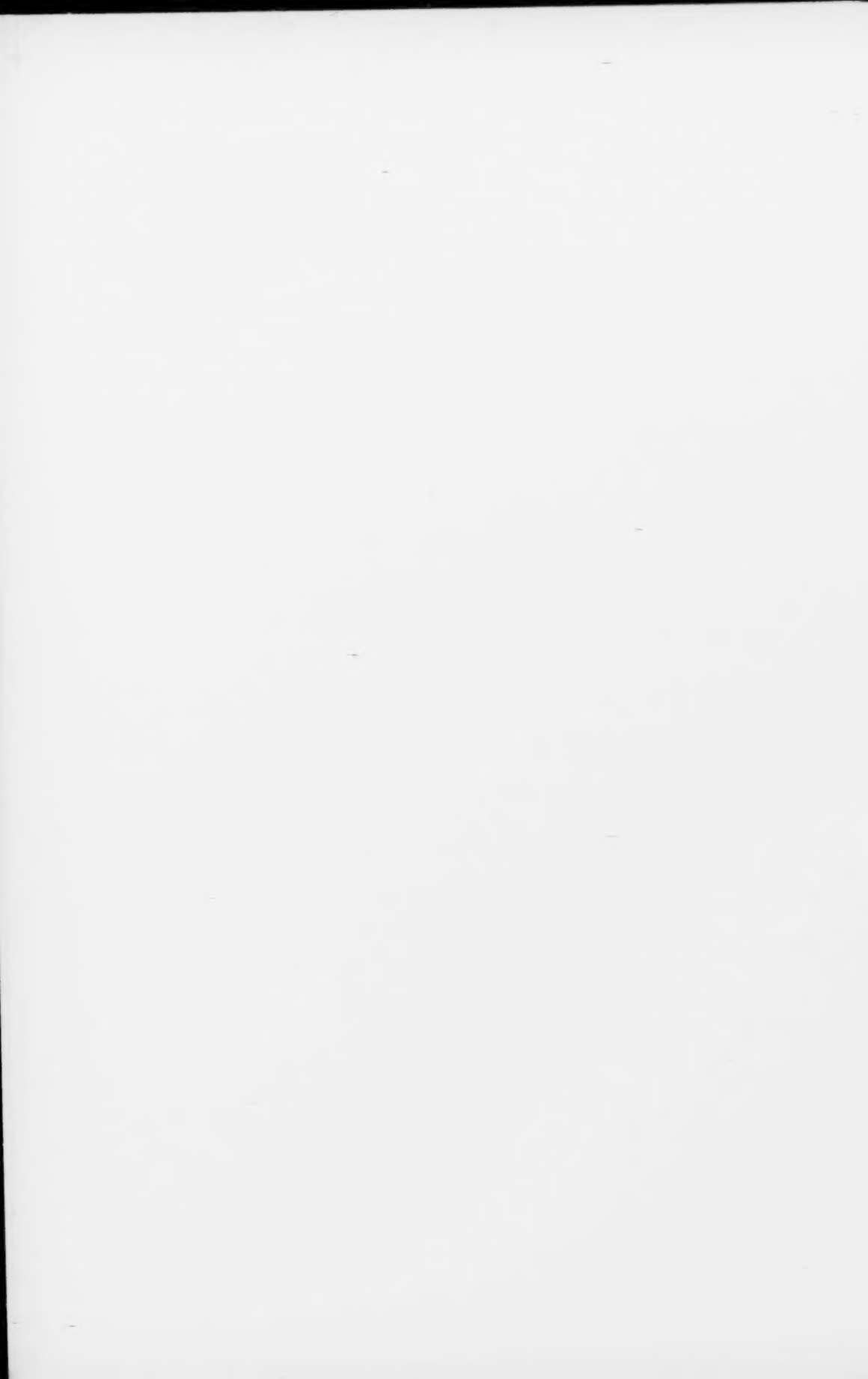
OPINION

The Court of Appeals entered its Memorandum decision affirming the denial of Petitioners Appeal on 12 June 1991. A copy of the Memorandum is attached as Appendix A.

The Order Dismissing Complaint filed 25 July 1990 by District Court is attached as Appendix B.

JURISDICTION

The Judgment of the Court of Appeals was entered on 12 June 1991. The Jurisdiction of this Court is invoked under the authority of Title 28, United States Code, Section 1254 (1).



CONSTITUTIONAL PROVISION INVOLVED

United States Constitution,  
Amendment, 1: and to Petition the  
Government for a redress of grievances.  
Amendment, 5: Nor shall any person . . .  
be deprived of life, liberty, or property,  
without due process of law. Amendment, 7:  
the right of trial by jury shall be  
preserved.

STATEMENT OF THE CASE

On 12 June 1991, a panel of the  
Ninth Circuit Court of Appeals affirmed  
the defendant is immuned from suit,  
the suit must be dismissed regardless  
of the merits of the plaintiff's  
claims.



REASON FOR GRANTING THE WRIT

Where petitioner's rights given to him by the Constitution can be taken away by dictatorial, discriminational laws, by a dictatorial Government and then Petitioner files a complaint the 1st Amendment to the Constitution for a redress of grievances, the 5th Amendment to the Constitution due process of law ( fair trial), the 7th Amendment to the Constitution the right of trial by jury shall be preserved. There is no DEMOCRATIC Government, and that government of the people, by the people for the people , shall not perish from the earth. There is no Constitution.

We have a DICTATORIAL Government by Dictators for Dictators. All dictators in government and government is immuned from suit.





CONCLUSION

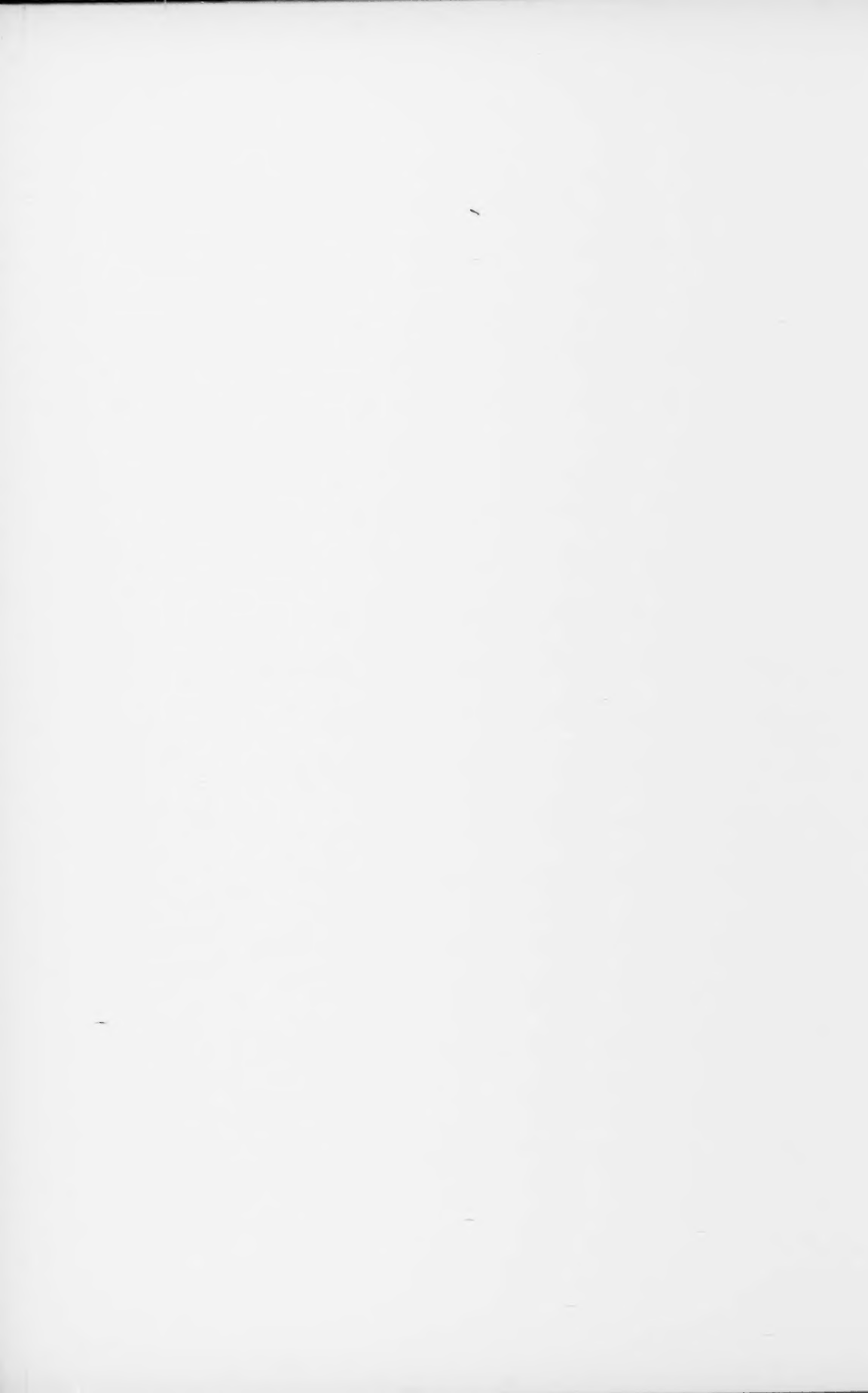
From BACKGROUND page A-3 Strand submitted a "married filing joint" tax return false statment. Petitioner was forced to file separate by a dictatorial law.

From BACKGROUND page A-3 sec par and we affirmed the dismissal in 1989

page A-4 DISCUSSION third par Strand presents us,cont Two years ago we expl  
ained From Memorandum 1989 Before  
POOLE, BEEZER, and TROTT NOT NELSON,  
O'SCANNLAIN and TROTT.

Petitioner's Complaint was NOT  
to recover false collected income tax.  
NOT the collection of any tax.

From Transcript starting with pg C  
4,5.6,7,8.9.10,11,and 12. Judge Rhoades  
addresed Administrative and a refund  
claim.?

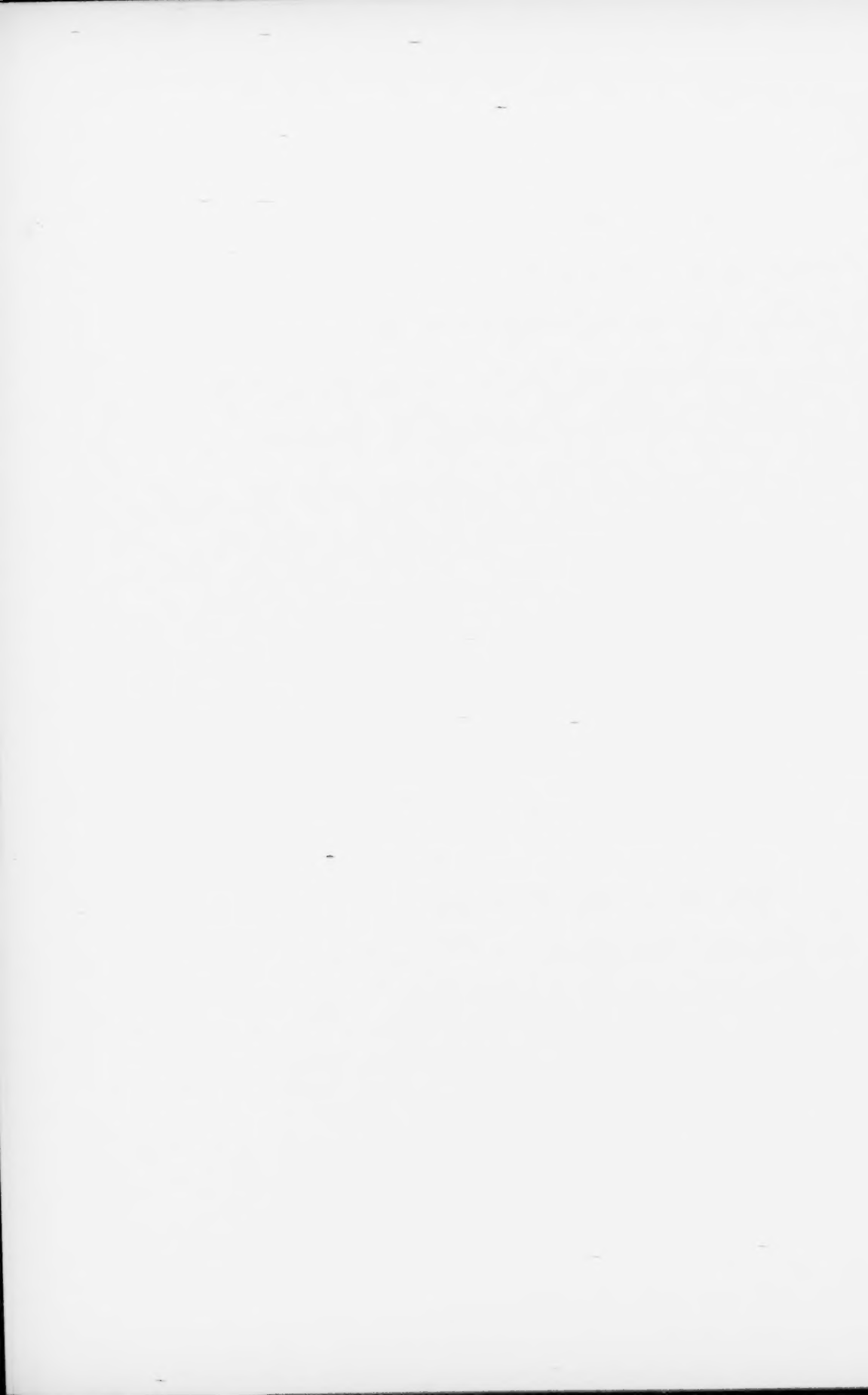


From DISCUSSION pg A-5 administrative claim under 28 u.s.c. 2675(a) Letter from I.R.S. Jul 20 1979 If it is determined that your marital status is married, you can choose to file jointly or separately. However, a joint filing status must be selected by both of you as the return is considered a single return representing two people. If one of the individuals does not wish to be represented in this matter, then two separate returns must be filed.

Ms Janet Stewart  
Problem resolution  
Technician

The above answer states my Complaint is proper. The above law forced Petitioner to file a separate return. The above law is dictatorial. I.R.S. does not make laws. The Government does.

26 U.S.C. 7422 (a) NO SUIT PRIOR TO FILING CLAIM FOR REFUND. C-10 Judge Rhoades PLAINTIFF'S OPPOSITION PAPERS



CONCEDE THAT HE IS NOT SEEKING A TAX  
REFUND,

Two items from Petitioner's  
Complaint (4) Tax year 1977. Plaintiff  
was forced to file seperate return. Due  
to Dorothy Caroline Strands request to  
back date final dissolution of marriage  
to December 12, 1977 will allow her to  
file as a single person, improving the  
tax benffits. Plaintiff was able to file  
Amended tax return from married filing  
separately to single. This was reduction  
in taxes \$642.00 for year 1977 If  
Plainitiff would have been able to file  
Married joint in 1976 what would the  
savings been?\_\_\_\_\_If Plaintiff would  
have been able to file married joint in  
1977 what would the savings been?\_\_\_\_\_

Item 9 Internal Revenue Services  
Code Title 26, 2, (a) (1) (A) of his. \_\_\_\_\_  
26,2 (a) (1) (B) his home



26,2, (a) (2) (B) his spouse,  
26, 2 (b) (1) (A) his home  
26, 2 (b) (2) (B) his spouse  
26, 2 (b) (2) (C) his taxable  
26, 2 (b) (2) (D) his taxable  
26, 44A (c) (1) (B) himself  
26, 44A (c) (1) (C) if he  
26, 44A (c) (1) (C) himself  
26, 44A (f) (2) his spouse  
26, 44A (f) (3) his spouse  
26, 44A (f) (4) (A) (i) his home  
26, 6109 (a) (2) his proper  
26 6109 (a) (4) his employer  
26 6109 (b) (1) his liability

Where is the she, her? Title 26 is just  
a dictatorial act.

From Petitioners complaint on page  
-7- filling in the \_\_\_\_ estimates 1976  
\$1000.00 1977 \$358.00 total \$1358.00

My complaint is not about tax money.





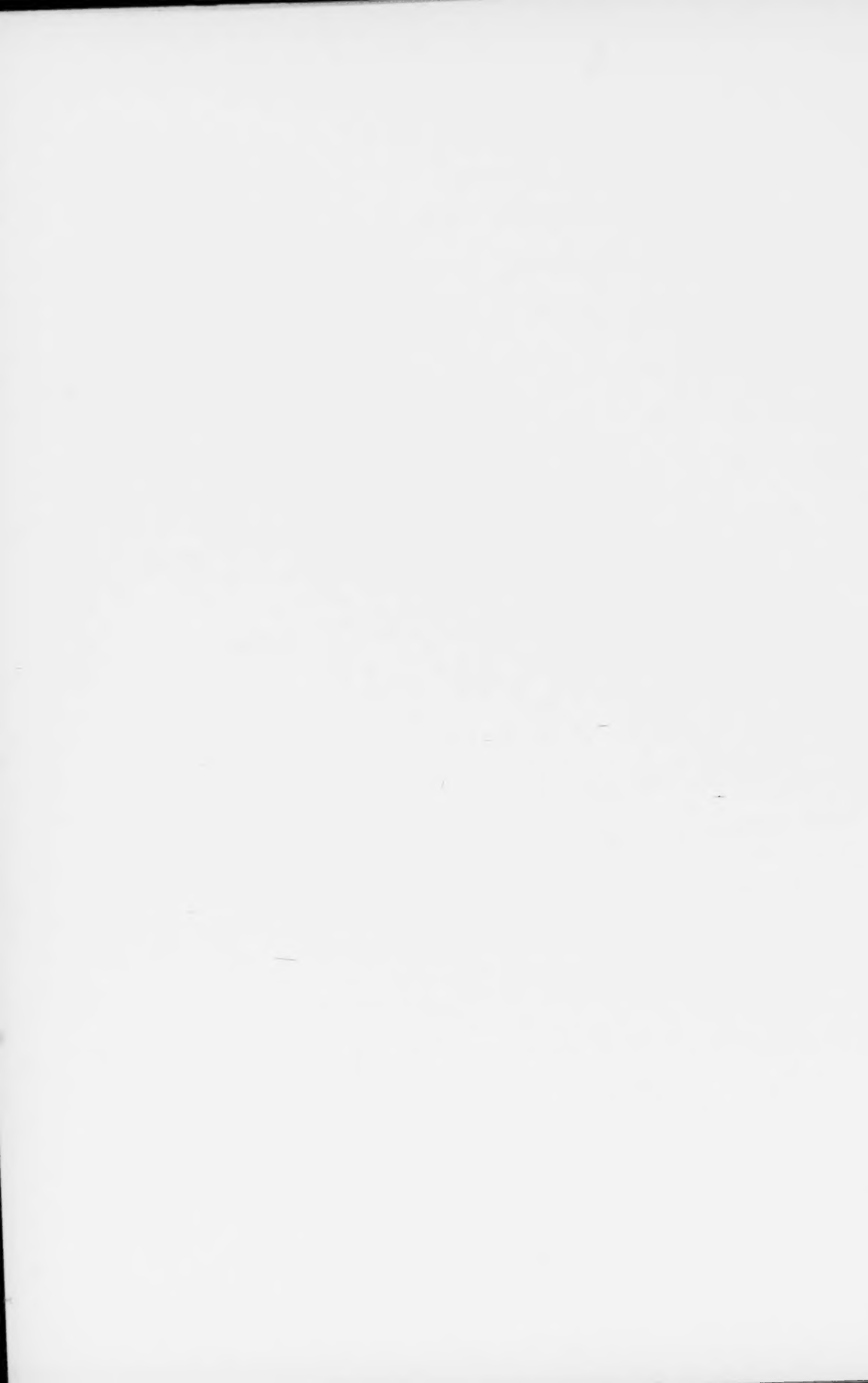
Judge NELSON, O'SCANNLAIN, TROTT  
and RHOADES, Attorney GARY R. ALLEN  
State my case is frivolous.

Petitioner request this Honorable Court  
assess the above Judges and Attorney  
the frivolous amount of \$1358.00 each to  
a non deductible for income tax purposes,  
Charitable Organization.

Impose sanctions to the above Judges  
and Attorney in the amount of \$500.00 each  
for there Fairy tale about  
administrative claims, tax refunds to  
the same Charitable Organization.

The Dictators above are taking Away  
another of my rights to appeal a case.  
Now if I was murder like Robert Harris I  
could have 31 hearings and counting.

The Government has made dictatorial  
acts "immunity" for its self and all  
government employees. This is a Court  
away from complete dictatorship.



For the foregoing reasons, Petitioner John Albert Strand respectfully requests that a Writ of certiorari issues to review the judgement of the United States Court of Appeals for the Ninth Circuit.

Respectfully submitted

*John Albert Strand*  
JOHN ALBERT STRAND

Petitioner Pro Se  
515 Park Way #11  
Chula Vista Ca. 91910  
Tel (619) 4259486

Date 19th August 1991

## APPENDICES

A-1

FILED June 12 1991  
CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS  
FOR THE NINTH DISTRICT

|                          |                  |
|--------------------------|------------------|
| JOHN ALBERT STRAND,      | ) No. 90-56269   |
|                          | )                |
| Plaintiff-Appellant,     | ) USDC No.       |
|                          | ) 90-0069-R(IEG) |
| v.                       | )                |
|                          | ) MEMORANDUM*    |
| UNITED STATES OF AMERICA | )                |
|                          | )                |
| Defendant-Appellee..     | )                |
|                          | )                |
|                          | )                |

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Appeal from the United States  
District Court for the  
Southern District of California

Hon. John S. Rhoades Sr., Presiding

Submitted: June 7, 1991\*\*

Before: NELSON, O'SCANNLAIN, and TROTT  
Circuit Judges

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\* This disposition is not appropriate for  
publication and may not be cited to or by the  
courts of this circuit except as provided by  
9th Cir. R. 36-3.

\*\* The panel unanimously finds this case  
appropriate for submission without oral argument  
pursuant to Fed. R. App. P. 34(a) and 9th Cir.  
R. 34-4.



A-2

Appellant John Albert Strand appeals the district court's dismissal of his pro se complaint, in which he alleges unconstitutional discrimination based on the fact that in 1976 and 1977 the Internal Revenue Service ("I.R.S.") would not allow him to file a joint tax return when his wife filed a seperate return. Weaffirm the dismissal of Strand's case and sanction him for this frivolous appeal.





BACKGROUND

In 1976 and 1977 Strand submitted a "married filing joint" tax return, even though his wife opted to file separately. This created a tax deficiency the I.R.S. remedied with a levy on Strand's wages.

In 1986 Strand filed an action in district court against the United States for ten million dollars in damages purportedly caused by the levy and other govern **mental** actions. The district court dismissed the suit and we affirmed the dismissal in 1989.

Strand then filed an action against the district court judge, the government attorney who oposed him, and the Department of Justice. When the district court dismissed this case, Strand then sued President Reagan for failure to supervise the judges and federal employees involved in his litigation. This action was also dismissed.



At the beginning of 1990 Strand filed in district court once more against the federal government, again asking for ten million dollars in damages as compensation for alleged governmental wrongs committed against him. The district court dismissed Strand's case, characterizing it as frivolous and wholly without merit.

#### DISCUSSION

##### I. Dismissal of Complaint

We review the district court's grant of the motion to dismiss Strand's case de novo. *Kruso v. International Telephone & Telegraph Corp.*, 872 F.2d 1416 1421 (9th Cir. 1989, cert denied, 110 S. Ct 3217 (1990)).

This current appeal marks the second time Strand presents us with precisely the same claim. Two years ago we explained that the doctrine of sovereign immunity bar this action. Under this doctrine, a



litigant may not sue the United States without its consent in the form of an express waiver of immunity. Holloman v. Watt, 708 F.2d 1399, 1401 (9th Cir. 1983) cert. denied, 466 U.S. 958 (1984). The Federal Tort Claims Act ("FTCA") waives sovereign immunity when a plaintiff seeks administrative relief before filing a legal action. 28 U.S.C. 2675 (a). The filing of an administrative claim against the I.R.S. under 26 U.S.C. 7422(a) enables a plaintiff to recover falsely collected income tax.

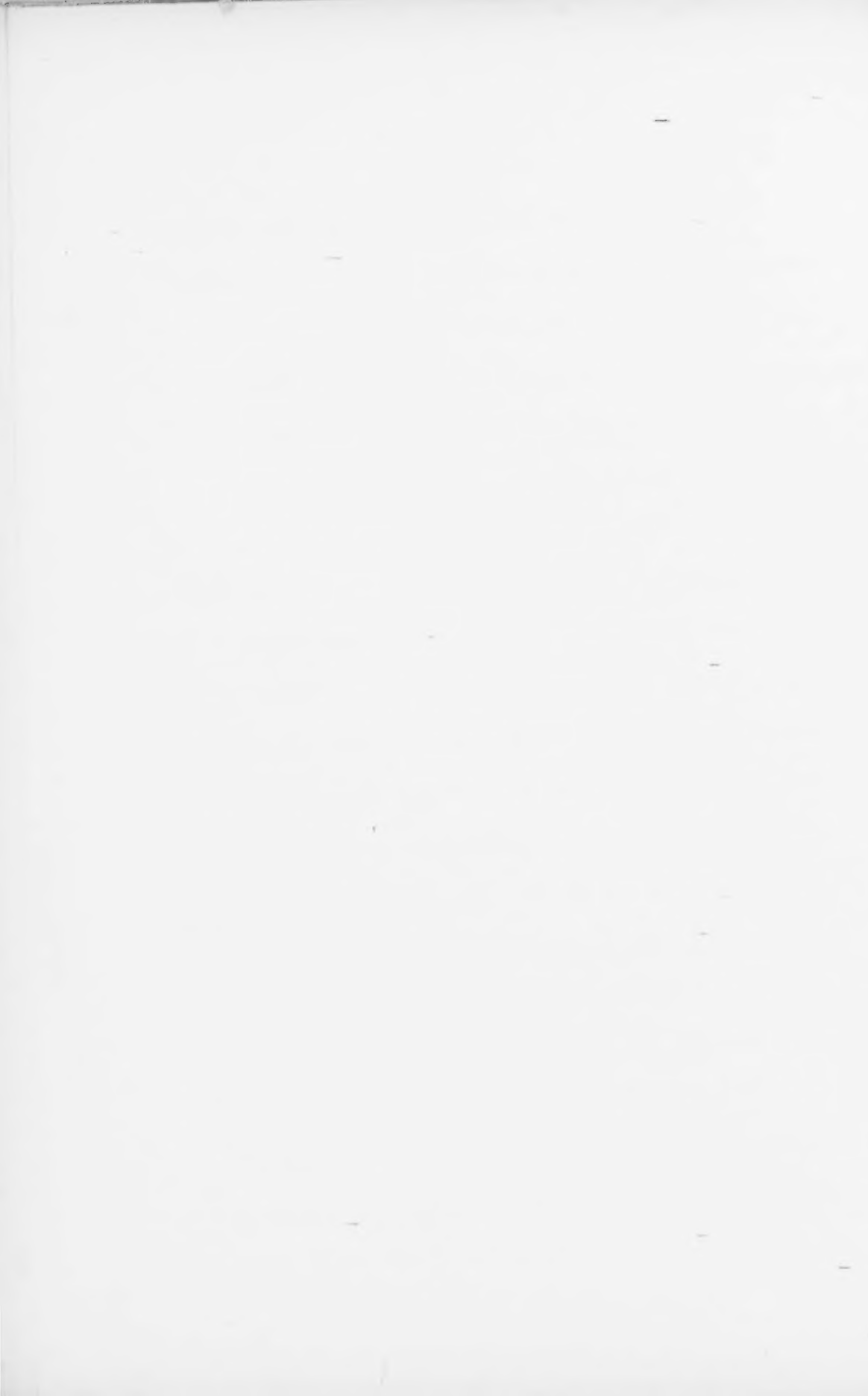
We stated two years ago that the district court lacked subject matter jurisdiction because Strand failed to file the required administrative claim under 28 U.S.C. 7422 (a). Now, the transcript from the trial below indicates that Strand did eventually file the appropriate administrative claim, but only long after the statute of limitations had expired.



Moreover, no other waiver of sovereign immunity applies because the FTCA specifically excludes suits regarding the collection of any tax. 28 U.S.C. 2680(c). Thus, the sovereign immunity defense remains intact and the district court properly dismissed Strand's complaint.

## II Sanctions

The government requests sanctions against Strand for the filing of this appeal. We have discretion to impose such sanctions to deter frivolous appeals and conserve judicial resources. 28 U.S.C. 1912; Fed. R. App. P. 38; see, e.g., Maisano v. United states, 908 F. 2d 408, 411 (9th Cir. 1990) (41500 against pro se litigants): In Re Becraft, 885 F.2d 547, 548 (9th CIR. 1989) (42500 against attorney with predilection for advancing meritless tax claims); Wilcox v. Commissioner, 848 F. 2d 1007, 1008-09 (9th CIR. 1988) ( \$1500 against pro se tax litigant):

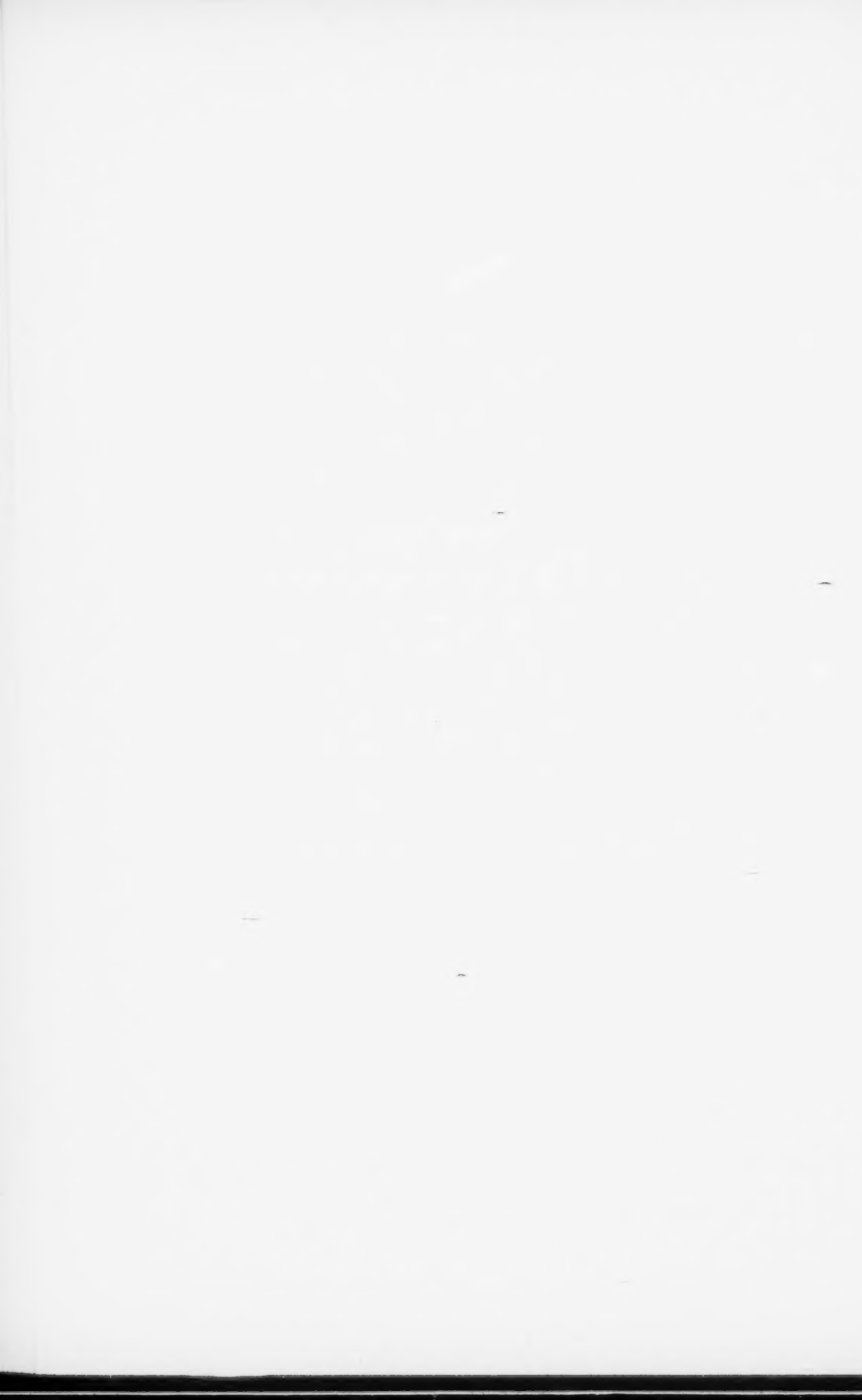




Grimes v. Commissioner, 806 F.2d 1451, 1454 (9th Cir. 1986) (same).

While the imposition of sanctions is completely discretionary, the appropriateness and amount in a given case. First, the appeal must be frivolous, meaning that the result is obvious or that the complaint wholly lacks merit. Wilcox, 848 F. 2d at 1009. Next we consider whether the litigant displays a history of frivolous tax litigation. Colton v. Gibbs, 902 F. 2d 1462, 1464 (9th Cir. 1990) ( \$500 against persistent pro se litigant).

We find sanctions appropriate against Strand because the district court found his action frivolous, the trial judge clearly explained to him the worthlessness of his claim, and yet he persists in pursuing it. Strand has asserted essentially the same grievance five times now, with no indication he will cease. Therefore, in order to



A- 8

discourage Strand from wasting further  
judicial resources, we impose sanctions of  
\$500. If Strand Continues to advance his  
fruitless claim, he should expect  
additional sanctions of at least \$1500.

AFFIRMED WITH SANCTIONS,



FILED 25 JULY 1990  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

WILLIAM BRANIFF  
United States Attorney

ROBERT H. PLAXICO  
Assistant United States Attorney

GREG ADDINGTON  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 307-5867

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

|                           |                  |
|---------------------------|------------------|
| JOHN ALBERT STRAND        | ) Civil No.      |
|                           | ) 90-0069 R(IEG) |
| Plaintiff,                | )                |
|                           | ) ORDER          |
| v.                        | ) DISMISSING     |
|                           | ) COMPLAINT      |
| UNITED STATES OF AMERICA, | )                |
|                           | )                |
| Defendants.               | )                |
|                           | )                |

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The motion of the federal Defendant  
to dismiss Plaintiff's complaint came on  
regular hearing on July 2, 1990 11:21 A.M.



B-2

before United States District Judge John S. Rhoades, Sr. Greg Addington appeared on behalf of the defendant United States of America. Plaintiff John Albert Strand appeared on his own behalf. Upon review of the pleadings and good cause appearing therefore,

IT IS HEREBY ORDERED that the complaint be dismissed with prejudice.

Dated 7/24, 1990

JOHN S. RHOADES, RS.  
JOHN S. RHOADES, SR.  
United States  
District Judge





UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JOHN ALBERT STRAND, )  
 ) 90-0069  
 )  
 PLAINTIFF, )  
 )  
 -v- ) SAN DIEGO,  
 ) CALIFORNIA  
 UNITED STATES OF AMERICA, ) MONDAY, JULY  
 ) 1990 11:21  
 ) A.M.  
 DEFENDANT. )  
 )  
 \*\*\*\*\*

TRANSCRIPT OF MOTIONS  
BEFORE THE HONORABLE JOUN S. RHOADES  
UNITED STATES DISTRICT JUDGE

APPEARANCES: JOHN ALBERT STRAND, PRO PER  
515 PARK WAY, #11  
CHULA VISTA, CA. 91910

FOR THE GOVERNMENT: GREG ADDINGTON, ESQ  
ASSISTANT U. S. ATT  
940 FRONT STREET  
SAN DIEGO, CA  
92189

COURT REPORTER: MINDI L. COLOHICO  
940 FRONT STREET  
ROOM NO. 3N10B  
SAN DIEGO, CA, 92189  
(619) 232-0544

PROCEEDINGS REPORTED STENOGRAPHICALLY;  
TRANSCRIPT PRODUCED BY COMPUTER.



C-2  
PROCEEDINGS

DEPUTY CLERK: NO. 23, CASE NO. 90-0069,  
JOHN ALBERT STRAND VERSUS UNITED STATES

MR STRAND: JOHN ALBERT STRAND, PRO  
PER. ONE MINUTE.

MR. ADDINGTON: GREG ADDINGTON.  
DEPARTMENT OF JUSTICE, REPRESENTING THE  
UNITED STATES. TWO TO THREE MINUTES.

THE COURT: AKAY. THANK YOU.

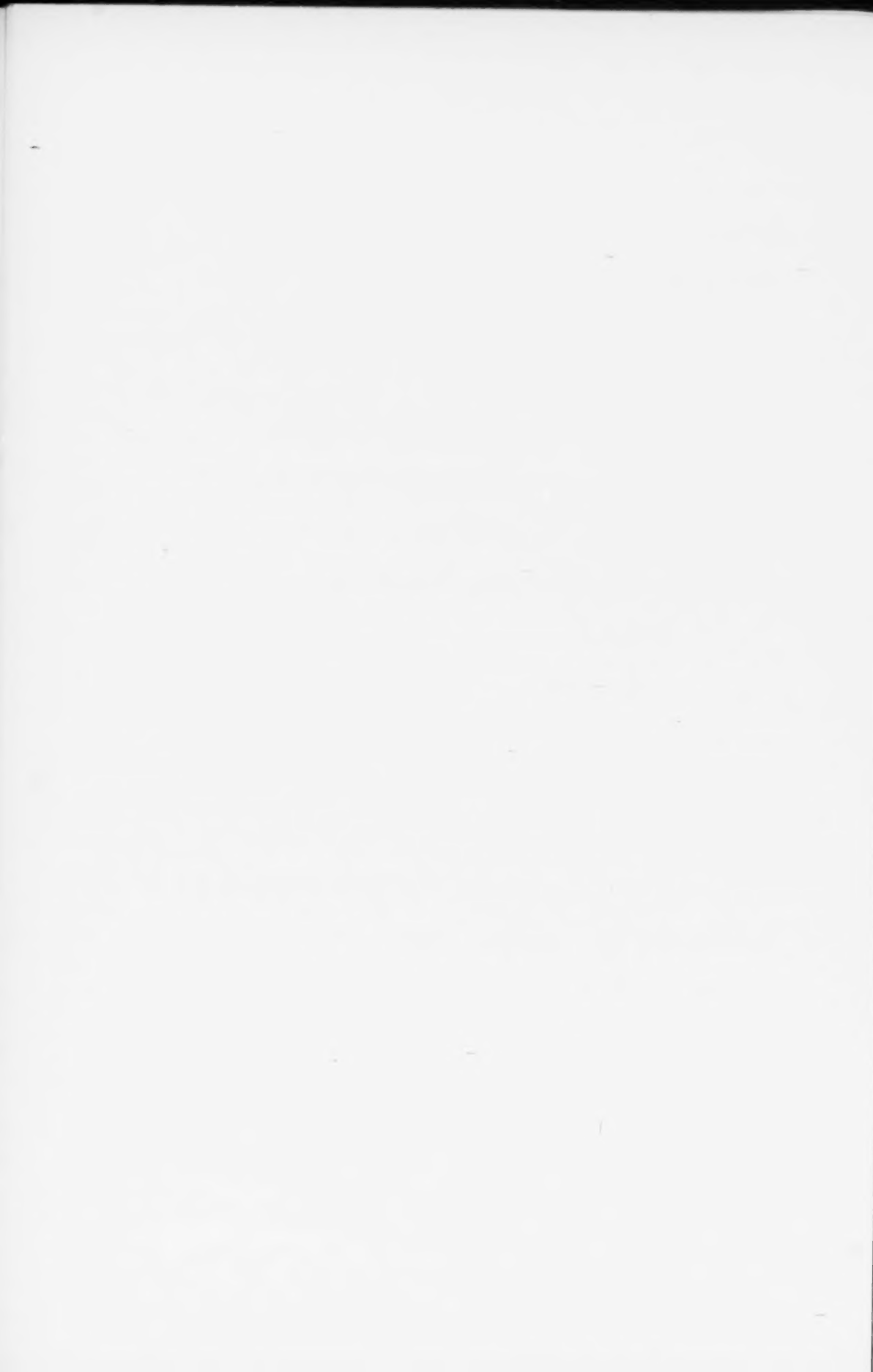
(RECESS)

DEPUTY CLERK: NO.23, CASE NO.  
90-0069, JOHN ALBERT STRAND VERSUS THE  
UNITED STATES.

MR.ADDINGTON: GREG ADDINGTON,  
DEPARTMENT OF JUSTICE, REPRESENTING THE  
DEFENDANT AND MOVING PARTY, THE  
UNITED STATES.

MR. STRAND: GOOD MORNING, YOUR  
HONOR. THIS IS JOHN STRAND, IN PRO PER.

THE COURT: MR. STRAND, I HAVE READ  
YOUR PAPERS. DO YOU HAVE ANYTHING  
FURTHER YOU WISH TO OFFER?



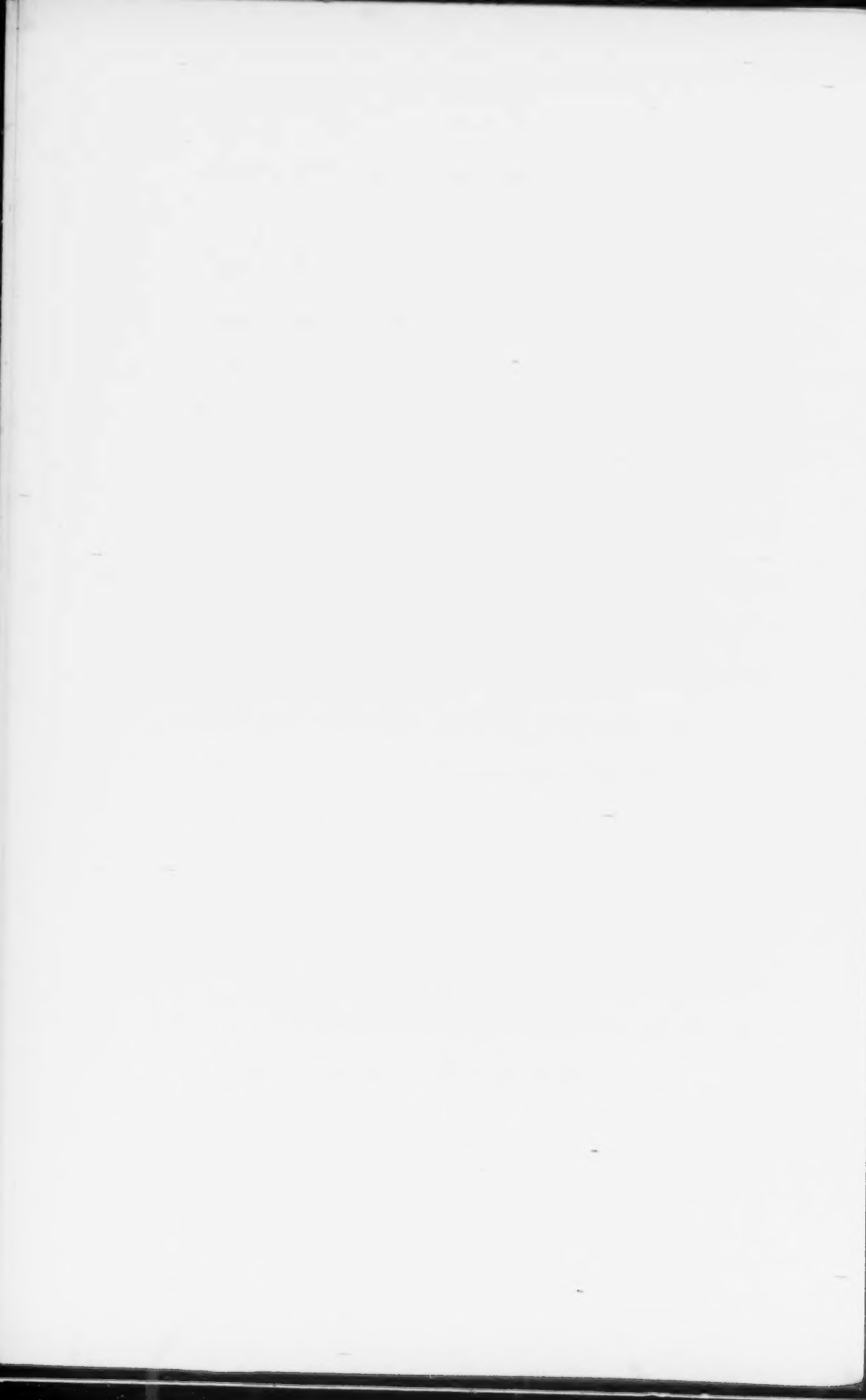
MR. STRAND; NOT AT THIS TIME, YOUR HONOR.

THE COURT: THIS LITIGATION OR SAME KIND OF LITIGATION HAS BEEN AROUND THE COURTHOUSE BEFORE. YOU ARE UNHAPPY WITH THE GOVERNMENT AND UNHAPPY WITH THE TAXES AND UNHAPPY WITH A LOT OF THINGS. BEING UNHAPPY WITH IT DOESN'T MEAN THAT YOU HAVE A CLAIM. WHAT ARE YOU ASKING FOR? I CAN'T QUITE TELL WHAT YOU WANT THE GOVERNMENT TO DO.

MR. STRAND: MOSTLY CORRECT THE LAWS THAT ARE DISCRIMINATORY.

THE COURT: WHAT DO YOU WANT THEM TO DO? WHAT SPECIFICALLY?

MR. STRAND: I WOULD LIKE TO HAVE THEM TO CORRECT THE LAWS, ALONG WITH GIVING ME ACTUALLY SOME KIND OF COMPENSATION FOR ALL THE TROUBLE THAT THEY PUT ME THROUGH. THIS STARTED IN 1976.



FROM THAT TIME I HAV BEEN TRYING TO GET  
SOMEBODY TO MAKE A SETTLEMENT, AND ALL  
I GET IS LIKE THE ONES THAT CAME  
THROUGH NOW, IT IS ALL -- NO FACTS THAT  
THEY ARE PUTTING UP.

THE COURT: HAVE YOU FILED A CLAIM  
WITH THE GOVERNMENT?

MR. STRAND: YES, I HAVE.

THE COURT: WHERE DID YOU DO THAT?  
DO YOU HAVE A COPY OF THE CLAIM? I DON'T  
SEE IT ANYWHERE IN THE PAPERS. HAVE YOU  
ASKED FOR ADMINISTRAYIVE RELIEF FROM  
THE GOVERNMENT?

MR. STRAND: ADMINISTRATIVE RELIEF?  
IT IS JUST RELIEF THAT'S IN MY COMPLAINT.

THE COURT: WELL, UNDER THE LAW, YOU  
HAVE TO FILE A CLAIM WITH THE GOVERNMENT,  
AN ADMINISTRATIVE CLAIM ASKING FOR RELIEF.  
AND THEN THE GOVERNMENT, THE APPROPRIATE  
AGENCY, LOOKS AT IT AND THEY CAN EITHER  
PAY YOUR CLAIM OR DENY IT. IF THEY DENY  
IT, THEN YOU CAN FILE SUIT.





BUT UNTIL YOU DO THAT, YOU CAN'T FILE  
SUIT. SO I NEED TO KNOW, HAVE YOU FILED  
A CLAIM?

MR STRAND: I BELEIVE I HAVE, YOUR  
HONOR.

THE COURT: DOES THE GOVERNMENT HAVE  
ANY RECORD OF HIS FILING A CLAIM?

MR. ADDINGTON: NO SIR.

THE COURT: THERE IS NOTHING IN THE  
PAPERS BEFORE ME THAT SUGGESTS THAT YOU  
HAVE FILED A CLAIM. YOU DO HAVE A CLAIM  
IN THERE FOR A REFUND. IS THAT THE ONE  
YOU ARE TALKING ABOUT?

MR. STRAND: YES.

THE COURT: HOW MUCH IS THAT FOR?

MR. STRAND: THE 843 FORM.

THE COURT: BUT THAT'S NOT WHAT YOU  
ARE ASKING FOR IN THIS LAWSUIT. YOU ARE  
NOT ASKING FOR A REFUND. YOU ARE ASKING  
FOR SOMETHING ELSE, AND THATS WHAT I  
CAN'T FIGURE OUT WHAT THE SOMETHING ELSE  
IS.



MR. STRAND IT IS FOR ALL THE -- I DON'T KNOW WHICH WAY YOU WANT TO PUT IT, BUT ANYWAY ALL THE PAIN AND SUFFERING FROM THERE LAWS THAT THEY'VE FORCED ME -- IN 1976 AND 1977, I WAS FORCED TO PAY ADDITIONAL TAXES AND ON THE 1977 ONE, AFTER I REFILED, I BELIEVE IT WAS \$643 THAT WAS RETURNED TO ME FILING SINGLE.

THE COURT: AKAY. ANYTHING ELSE, SIR? WASN'T THIS DECIDED BY JUDGE IRVING ONCE BEFORE?

MR. STRAND: NO.

THE COURT: WHY NOT?

MR. STRAND: WITH JUDGE IRVING, IT WAS THAT I HADN'T FILED THE -- OR SERVED THE PAPERS PROPERLY.

THE COURT: OKAY

MR. STRAND: SO THAT'S WHY I WAS DISMISSED.

THE COURT: I WOULD LIKE TO HEAR FROM THE GOVERNMENT.



WHAT ADMINISTRATIVE REMEDIES DO YOU FEEL HE SHOULD HAVE EXAUSTED BEFORE HE WENT TO COURT?

MR. ADDINGTON: IT WOULD DEPEND UPON THE SORT OF RELIEF THAT HE IS REQUESTING.

IF HE IS REQUESTING A REFUND OF TAXES, WHICH HE ALLEGES WAS OVERPAID, HE NEEDS TO HAVE TIMELY FILED AN ADMINISTRATIVE CLAIM FOR A REFUND.

THE COURT: I UNDERSTAND FROM MY CLERK THAT HE HAS FILED FOR THAT RELIEF.

MR ADDINGTON: THAT'S CORRECT.

THE COURT: WHAT HAPPENED TO THAT CLAIM?

MR. ADDINGTON: IT WAS DENIED BECAUSE IT WAS UNTIMELY.

THE COURT: I SEE. SO HOW LONG AGO WAS THAT?

MR ADDINGTON: I BELIEVE THAT WAS CONNECTED WITH HIS ORIGINAL COMPLAINT BEFORE JUDGE IRVING.



THE COURT: WHAT IS THE STATUTE OF LIMITATIONS FOR ALL OF THIS?

MR. ADDINGTON THE ADMINISTRATIVE CLAIM FOR REFUND NEEDS TO BE FILED WITH THE INTERNAL REVENUE SERVICE EITHER TWO YEARS AFTER THE TAXES WERE PAID OR THREE YEARS AFTER THE RETURN WAS FILED, WHICH EVER IS LATER.

THE COURT: HOW SOON MUST SUIT BE FILED AFTER A DENIAL?

MR. ADDINGTON: TWO YEAR, I BELIEVE.

THE COURT: AND THE TWO YEARS HAS PASSED?

MR. ADDINGTON: LONG SINCE PASSED, YOUR HONER.

THE COURT: OKAY. ANYTHING FURTHER, SIR?

MR. STRAND: NOT AT THIS TIME, SIR.

THE COURT: I HAVE READ THE PAPERS SUBMITTED BY THE PARTIES.





I HAVE CONSIDERED THE ARGUMENTS MADE THEREIN AND AM NOW READY TO RULE.

THE COURT REALIZES THAT THE PLAINTIFF IS PRO SE, AND I HAVE CAREFULLY CONSIDERED THE MATERIAL ELEMENTS OF THE GOVERNMENT'S MOTION TO DISMISS. THE PLAINTIFF HAS ALLEGED VIOLATIONS OF HIS CONSTITUTIONAL RIGHTS ARISING OUT OF THE DISAGREEMENTS WITH THE FEDERAL TAX POLICY AND THE INTERNAL REVENUE SERVICE DATING BACK TO 1977.

HE HAS INVOKED THE FIRST, FIFTH AND SEVENTH AMENDMENTS TO THE CONSTITUTION IN SUPPONT OF HIS CLAIM AND SEEKS COMPENSATORY DAMAGES AND PUNITIVE DAMAGES IN THE AMOUNT OF \$10 MILLION. THE COMPLAINT ALLEGES NO FACTS WHICH COULD SUPPORT A CLAIM FOR DEPRIVATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS. THESE CLAIMS MUST THEREFORE BE DISMISSED PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE SECTION 12 (B) (6).



NEITHER DOES IT ALLEGE FACTS WHICH WOULD ENABLE THE PLAINTIFF TO MAINTAIN SUIT AGAINST THE FEDERAL GOVERNMENT UNDER A STATUTORY WAIVER OF SOVEREIGN IMMUNITY.

PLAINTIFF'S OPPOSITION PAPERS CONCEDE THAT HE IS NOT SEEKING A TAX REFUND, PLAINTIFF'S MEMO AT PAGE 2, SO I NEED NOT ADDRESS THAT POSSIBILITY. THIS COURT CANNOT HEAR A CLAIM FOR DAMAGES IN TORT UNLESS THE PLAINTIFF HAS EXHAUSTED HIS ADMINISTRATIVE REMEDIES HERE BY FILING AN ADMINISTRATIVE TORT CLAIM WITH THE I.R.S. SEE 28 UNITED STATES CODE SECTION 2675; MELO V. U.S. 505 f. 2D 1026 at 1028, EIGHTH CIRCUIT, 1974. THE COURT HAS NO SUBJECT MATTER JURISDICTION OVER THE STATUTORY CLAIMS, IF ANY, AND THEREFORE THEY MUST BE DISMISSED AS WELL. FEDERAL RULE OF CIVIL PROCEDURE 12(B) (1),



ADDITIONALLY, AS THE GOVERNMENT HAS REQUESTED, THE COURT TAKES JUDICIAL NOTICE OF THE PLAINTIFF'S PRIOR LAWSUITS AGAINST VARIOUS OFFICERS AND AGENCIES OF THE FEDERAL GOVERNMENT. DOCKET NOS. 86-787, 86-1953 AND 88-1890 IN THE SOUTHERN DISTRICT OF CALIFORNIA, ALL OF WHICH APPEAR TO ARISE OUT OF THE SAME SET OF FACTS.

THE COURT FINDS THE COMPLAINT BEFORE IT TODAY TO BE FRIVOLOUS AND WHOLLY WITHOUT MERIT. IF THE GOVERNMENT WISHES TO MOVE FOR AN ORDER ENJOINING THE PLAINTIFF FROM CONTINUING TO FILE FRIVOLOUS LITIGATION ON THIS MATTER, THE COURT WILL ENTERTAIN IT. I DONT'T FEEL I CAN DO IT AT THIS TIME BECAUSE THERE IS NO MOTION BEFORE ME.

I REALIZE THIS HAS CAUSED YOU A LOT OF PAIN, MR. STRAND, AND YOU HAVE BEEN CONCERNED ABOUT IT OVER THE YEARS.



AND I HAVE SEEN THE DIFFERENT MEDICAL RECORDS THAT ARE IN HERE, BUT SOMETIMES THINGS HAVE TO COME TO AN END. AND YOU ARE JUST GOING TO HAVE TO ACCEPY THE FACT THAT YOU HAVE LOST THIS ONE.

THERE ARE OTHER THINGS IN LIFE THAN FIGHTING THE UNITED STATES GOVERNMENT. THE STATUTE OF LIMITATIONS HAS RUN. YOU HAVE NOT FOLLOWED THE ADMINISTRATIVE PROCEDURE ACT. AND I REALIZE IT IS DIFFICULT TO UNDER STAND BECAUSE IT IS AN ACT WHICH IS VERY COMPLICATED. BUT THAT WAS YOUR OBLIGATION, AND YOU DIDN'T DO IT. SO YOUR CASE MUST BE DISMISSED.

SO I HAVE TOLD THE GOVERNMENT THAT IF THEY WILL FILE A MOTION ASKING THAT YOU BE ENJOINED FROM ANY FURTHER LAW SUITS, I WILL CONSIDER IT. I WONT'T DECIDE IT AT THIS TIME. AND YOU CAN RESIST AT THAT TIME IF THE GOVERNMENT CHOOSES TO DO SO.





NO.

IN THE  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1991

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JOHN ALBERT STRAND

PETITIONER,

v.

UNITED STATES OF AMERICA

RESPONDENT,

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PROOF OF SERVICE

STATE OF CALIFORNIA)

) s.s.:

COUNTY OF SAN DIEGO)

EDWARD A. MAUGHAN, after being duly sworn, disposes and says that pursuant to rule 28.4 (a) of this Court, he served the within PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE NINTH CIRCUIT on Respondent's by

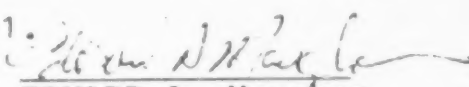


enclosing three copies thereof in an envelope, first class postage prepaid, addressed to:

Solicitor General  
Department of Justice  
Washington, D.C. 20530

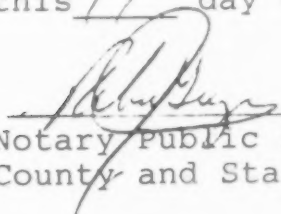
Gary R. Allen  
Attorney Tax Division  
Department of Justice  
P.O. Box 502  
Washington D.C. 20044

and depositing same in the United States mails at Chula Vista, California, on

19 August 1991.   
EDWARD A. Maughan,  
Affiant

Subscribed and Sworn to Before Me

this 19 day of August 1991

  
Notary Public in and For Said  
County and State

